



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-ES-2021-N166; FXHC11140900000-212-FF09E33000; OMB Control Number 1018-0148]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Land-Based Wind Energy Guidelines

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under Review – Open for Public Comments" or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference OMB Control Number 1018-0148 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service

Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 358–2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the information collection request (ICR) at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On December 22, 2020, we published in the Federal Register (85 FR 83607) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on February 22, 2021. We received two comments in response to that notice:

Comment 1: Comment received via email on December 29, 2020, from V. Weeks, which stated any data collection should be mandatory in order to have viable information.

Agency Response to Comment 1: The Service does not have regulatory authority to require this information collection. Therefore, we decline to make the requested change. The viability of data received under this collection is related to the methods and metrics used and relevance to inform decision-making.

Comment 2: Comment received via email on March 22, 2021, from Tom Vinson, Vice President, Policy & Regulatory Affairs, American Clean Power Association (ACP). The ACP provided several comments and suggestions, numbered below and responded to below with corresponding numbering.

1. The Land-Based Wind Energy Guidelines (WEGs) continue to form a practical approach to assess and minimize wind energy impacts to wildlife. The tiered development framework in the WEGs is fully integrated into the land-based wind energy development process.
2. Depending on the available information at each Tier, the Service has noted that the tiered approach does not require that every Tier, or every element within each Tier, be implemented for every project. The American Clean Power Association (ACP) agrees with this statement. For example, if a project is an additional phase to an existing project that has already gone through relevant Tiers, and the geography and habitat are similar, repeating Tiers on this new phase likely will not be necessary.
3. ACP agrees with statements made by Service that the WEGs “promote effective communication among wind energy developers and Federal, State, Tribal, and local conservation agencies. When used in concert with appropriate regulatory tools, the Guidelines are the best practical approach for conserving species of concern.”
4. ACP believes the estimate of the “annual number of respondents” in the Information Collection notice and the correlated total annual burden hours are low based on the number of wind facilities placed into service, under construction, or in an advanced phase of development as of the end of 2020. For every project constructed,

there are 5-10 projects that are cancelled for one reason or another (wildlife or otherwise). Those projects have likely utilized Tier 1, potentially Tier 2, and in some cases, Tier 3. Also, projects may be built in phases with each phase being a separate entity, and the extent to which individual entities use the WEGs for individual project phases, or for a portfolio of phases within a geographic area, may differ. Thus, even though one set of WEG Tiers was applied, it may have covered up to five or six separate projects.

5. The number of wind projects going into service or starting development in any given year will continue to grow. Based on discussions with members, ACP believes a majority of wind facilities will continue to adhere to the WEGs. Therefore, ACP suggests that the assumption on the number of projects each year going through WEG Tiers 1-4 is too low. Tiers 1-2 should be increased to include at least all projects put into service each year (90 in 2020) and then increase that number by a factor of 5 or 10. Tiers 3-4 should also be increased to include all the projects placed into service in a given year.
6. ACP provided an attachment that provides an estimate of the paperwork and respondent burden required for the wind industry to collect the data associated with the WEGs on a per project basis, based on discussions with project developers and consultants. Actual costs vary based on project details, company, consultant, regulatory requirements etc., however, ACP believes these updated estimates are a more accurate reflection of the costs necessary to adhere to the WEGs. ACP respectfully requested that the Service

utilize these estimates, combined with other assumed costs (e.g., government agency costs) in this and any other analysis of the WEGs going forward.

Agency Response to Comment 2: The Service provides the following responses corresponding to the comment number above:

1. The Service appreciates this feedback on the utility of the WEGs and integration of these voluntary guidelines into wind industry development practices. No action necessary.
2. The Service appreciates this feedback on the flexibility of the WEGs. We also note that use of the WEGs is voluntary, and when a developer decides to follow the tiered process outlined in the voluntary guidelines, decisions as to which Tiers are applicable at an individual project should be made in communication and coordination with the Service. No action necessary.
3. The Service appreciates this feedback on the role of the WEGs. No action necessary.
4. The Service will consider the data supplied by ACP regarding the annual number of respondents and make adjustments as appropriate.
5. The Service appreciates the information provided by ACP regarding the anticipated increase in wind energy development in the U.S., and the feedback from the wind industry indicating that the WEGs will continue to be implemented by a majority of developers and operators in the U.S. We will adjust the number of respondents for each Tier of the WEGs as appropriate based on the information you have provided.

6. The Service thanks ACP for compiling this information and will use the figures provided to adjust our estimates as appropriate.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: As wind energy production increased, both developers and

wildlife agencies recognized the need for a system to evaluate and address the potential negative impacts of wind energy projects on species of concern. As a result, the Service worked with the wind energy industry, conservation nongovernmental organizations, Federal and State agencies, Tribes, and academia to develop the voluntary Land-Based Wind Energy Guidelines (Guidelines; <http://www.fws.gov/windenergy>) to provide a structured, scientific process for addressing wildlife conservation concerns at all stages of land-based wind energy development. Released in 2012, the Guidelines promote effective communication among wind energy developers and Federal, State, Tribal, and local conservation agencies. When used in concert with appropriate regulatory tools, the Guidelines are the best practical approach for conserving species of concern.

The Guidelines discuss various risks to species of concern from wind energy projects, including collisions with wind turbines and associated infrastructure; loss and degradation of habitat from turbines and infrastructure; fragmentation of large habitat blocks into smaller segments that may not support sensitive species; displacement and behavioral changes; and indirect effects such as increased predator populations or introduction of invasive plants. The Guidelines assist developers in identifying species of concern that may potentially be affected by proposed projects, including but not limited to:

- Migratory birds;
- Bats;
- Bald and golden eagles, and other birds of prey;
- Prairie chickens and sage grouse; and
- Species that have been identified as candidates, or proposed or listed under the Endangered Species Act of 1973, as amended (16 U.S.C.

1531 et seq.).

The Guidelines follow a tiered approach. The wind energy developer begins at Tier 1 or Tier 2, which entails the gathering of existing data to help identify any potential risks to wildlife and their habitats at proposed wind energy project sites. The developer then proceeds through subsequent tiers, as appropriate, to collect information in increasing detail until the level of risk is adequately ascertained to inform the developer's decision on whether or not to develop the site. Many projects may not proceed beyond Tier 1 or 2, when developers become aware of potential barriers, including high risks to wildlife. Developers would only have an interest in adhering to the Guidelines for those projects that proceed beyond Tier 1 or 2.

At each tier, wind energy developers and operators should retain documentation to provide to the Service. Such documentation may include copies of correspondence with the Service, results of pre- and post-construction studies conducted at project sites, bird and bat conservation strategies, or any other record that supports a developer's adherence to the Guidelines. The extent of the documentation will depend on the conditions of the site being developed. Sites with greater risk of impacts to wildlife and habitats will likely involve more extensive communication with the Service and longer durations of pre- and post-construction studies than sites with little risk.

Distributed or community-scale wind energy projects are unlikely to have significant adverse impacts to wildlife and their habitats. The Guidelines recommend that developers of these small-scale projects conduct the desktop analysis described in Tier 1 or Tier 2 using publicly available information to determine whether they should communicate with the Service. Since such project designs usually include a single turbine associated with existing

development, conducting a Tier 1 or Tier 2 analysis for distributed or community-scale wind energy projects should incur limited non-hour burden costs. For such projects, if there is no potential risk identified, a developer will have no need to communicate with the Service regarding the project or to conduct studies described in Tiers 3, 4, and 5.

Adherence to the Guidelines is voluntary. Following the Guidelines does not relieve any individual, company, or agency of the responsibility to comply with applicable laws and regulations (i.e., species protected by the Endangered Species Act and/or Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c)).

This information collection was first approved by OMB in 2012 and subsequently renewed twice, in 2015 and 2018.

Title of Collection: Land-Based Wind Energy Guidelines.

OMB Control Number: 1018–0148.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Developers and operators of wind energy facilities.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: \$73,697,500. Costs will depend on the size and complexity of issues associated with each project. These expenses may include, but are not limited to: travel expenses for site visits, studies conducted, and meetings with the Service and other Federal and State agencies; training in survey methodologies; data management; special transportation, such as all-terrain vehicles or helicopters; equipment needed for

acoustic, telemetry, or radar monitoring; and carcass storage.

Requirement	Annual Number of Respondents	Number of Responses Each	Total Annual Responses	Completion Time per Response (Hours)	Total Annual Burden Hours
Tier 1 (Desktop Analysis)					
Reporting	630	1	630	52.5	33,075
Recordkeeping				1	630
Tier 2 (Site characterization)					
Reporting	473	1	473	210	99,330
Recordkeeping				3	1,419
Tier 3 (Pre-construction studies)					
Reporting	90	1	90	2,695	242,550
Recordkeeping				5	450
Tier 4 (Post-construction fatality monitoring and habitat studies)					
Reporting	90	1	90	3,600	324,000
Recordkeeping				5	450
Tier 5 (Other post-construction studies)					
Reporting	5	1	5	2,100	10,500
Recordkeeping				5	25
Totals	1,288		1,288		712,429

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer,

U.S. Fish and Wildlife Service.

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